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3500DISCRIMINATORY PRACTICES PROHIBITED

All public welfare programs and activities in Minnesota administered by the Commissioner of Public Welfare and by his agents-- the county welfare departments and the state institutions--by county nursing homes, licensed by him, and by any other agencies or organizations administered by or through the State Agency, are to be administered in such a manner that no person will, on the ground of race, color, or national origin, be excluded from participation in; be denied any aid, care, services, or other benefits of; or be otherwise subjected to discrimination in, any program administered or supervised by the Minnesota Department of Public Welfare.

No agency, organization, or individual may, because of race, color, or national origin:

1. Deny any individual any aid, care, services, or other benefits provided under the program.
2. Provide any aid, care, services, or other benefits to an individual that is different, or is provided in a different manner, from that provided to others under the program.
3. Subject an individual to segregation or separate treatment in any matter related to his receipt of any aid, care, services, or other benefits provided under the program.
4. Restrict an individual in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any aid, care, services, or other benefits provided under the program.
5. Treat an individual differently from others in determining whether or not he satisfies any eligibility or other requirement or condition that individuals must meet in order to receive any aid, care, services, or other benefits provided under the program.
6. Deny any individual an opportunity to participate in the program through the provision of services that are different, or given in a different way, from those afforded others under the program, including the opportunity to participate in the program as an employee where the primary objective of the federal financial assistance to the program is to provide employment, including a program under which the employment is provided to reduce unemployment.
7. Violate any provision of the Civil Rights Act of 1964 in the employment of any individual, whether on a full-time, part-time, or contractual basis, for participation in any program under federal sponsorship.

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ADMINISTRATIVE PRACTICES

No agency may, in determining (a) the types of aid, care, services, or other benefits to be provided under the program; (b) the class of individuals to whom, or the situations in which, such aid, care, services, or other benefits will be provided under the program; or (c) the class of individuals to be afforded an opportunity to participate in the programs, directly or through contractual or other arrangements, utilize criteria or methods of administration that have the effect of subjecting individuals to discrimination because of their race, color, or national origin or have the effect of defeating or substantially impairing accomplishment of the objectives of the program pertaining to individuals of a particular race, color, or national origin.

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The State Agency hereby incorporates the following requirements in its plan for administration of Title VI of the Civil Rights Act of 1964:

Information on nondiscrimination shall be furnished all individuals who apply for or receive public welfare benefits and services. This information is to be furnished to the extent that the individual (or the person acting in his behalf) understands that he is entitled to receive such benefits and services without discrimination on the basis of race, color, or national origin.

In public assistance, at the time of each redetermination of eligibility, the recipient shall be asked if he understands what his rights are under civil rights legislation. The case worker shall make adequate explanation if there is a lack of understanding.

All individuals who apply for or receive public welfare benefits and services shall be notified of their right to appeal for a fair hearing before the State Agency because of dissatisfaction related to discrimination because of race, color, or national origin.

Appeal procedures established as part of the state plan include the provision for the right of the Commissioner of Public Welfare, upon his own motion, to review any decision made by an officer or officers of a political subdivision having jurisdiction and his right to make such additional investigation as he deems necessary.

All representatives of the Commissioner of Public Welfare have the duty and responsibility to help insure that the provisions of the Civil Rights Act of 1964 and the state's plan for operation to insure against discrimination under that Act and federal regulations pertaining thereto are carried out uniformly throughout the state.

The Commissioner of Public Welfare will receive complaints about alleged or actual discrimination from or in behalf of any applicant for or recipient of assistance or services available through any program or activity the administration of which is financed wholly or in part through federal funds and administered by or in behalf of the Commissioner of Public Welfare. On receipt of such a complaint, he will take steps to determine the nature and substance of the complaint and will, whenever necessary, take appropriate steps through established appeal procedures, or otherwise, to adjust or correct the problem. Such steps will, whenever necessary or appropriate, include arrangements for, or initiation on his own motion of, a fair hearing to determine the facts, including, whenever necessary and appropriate, a request for corrective action by any of his agents, institutions, organizations, and facilities licensed by him or under his supervision or direction. If correction of the problem is not within his jurisdiction, he will make appropriate referral of the facts to other agencies, organizations, or commissions, such as to the official licensing or certifying agency for facilities not under his licensing authority, or to the State Department of Human Rights.

Case record information or other evidence must be available to substantiate the fact that rights of clients as provided for by federal (Title VI of the Civil Rights Act of 1964) and state law (Minn. Stat., Sec. 363.03) are being met. Such information and/or evidence may include but is not necessarily limited to:

- a. Entering into the case record a statement to show that information on nondiscrimination was discussed with the applicant or recipient of public welfare benefits and/or a service and that in the agency's judgment the client fully understood the rights he has under the act.
- b. Developing local procedures that will ensure that clients are advised of their rights as provided in civil rights legislation. If such procedures are developed and have State Agency approval, no "case record evidence" will be required to verify compliance with state plan requirements.

Examples:

- A procedure could be developed whereby all applicants for assistance and/or service are given literature dealing with the provision of civil rights legislation.

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- An agency may by local policy elect to have informational group meetings for all applicants. One of the subject areas to be presented and discussed at such meetings could be clients' rights as provided by civil rights legislation.

Note: As it pertains to a client's right to appeal in an instance in which a written application for assistance and/or service has been made and the application document used advises the client of his appeal rights, the fact that the client has reviewed and signed the application document will be considered adequate evidence that the administrative agency is complying with this requirement.

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COOPERATIVE AGREEMENT BETWEEN THE
MINNESOTA DEPARTMENT OF PUBLIC WELFARE
AND THE
MINNESOTA DEPARTMENT OF HEALTH

CONFIDENTIAL

RELATING TO THE MINNESOTA MEDICAL ASSISTANCE PROGRAM (TITLE XIX)

This Agreement made and entered into this 16th day of January, 19 72, by and between the Minnesota Department of Public Welfare, and the Minnesota Department of Health for the purpose of defining the responsibilities of the parties hereto in certifying nursing home facilities for participation in the Minnesota Medical Assistance Program (Title XIX), and shall be in effect until terminated as specified herein.

WHEREAS, the United States Department of Health, Education, and Welfare has promulgated regulations concerning the certification of skilled nursing homes (45, CFR, Chapter II, Section 249.33, dated April 29, 1970), which impose duties and responsibilities upon the parties hereto;

WHEREAS, the Department of Public Welfare and the Department of Health have both mutual and individual responsibility and interest in the Minnesota Medical Assistance Program (Title XIX), and whereas the relationship between these two Departments in the specific program under Title XIX of the Social Security Act, must be clearly defined, the following sections constitute a formal agreement between the two Departments;

WHEREAS, the Department of Public Welfare is the agency designated to enforce the Minnesota Plan for the Medical Assistance Program (Title XIX) - Section 1902(a)(5) of the Social Security Act and MSA 256B.

WHEREAS, the Minnesota Department of Health is the agency with the responsibility to recommend certification on the basis of on-site inspection findings to determine compliance of skilled nursing homes, participating in the Minnesota Medical Assistance Program (Title XIX), with 45, CFR, Chapter II, Section 249.33.

NOW THEREFORE, for and in consideration of the mutual promises and mutual benefits to be conferred upon each other as stated below, the parties hereto agree to perform the following duties in connection with skilled nursing homes.

SECTION I

DEFINITIONS

- A. The term "skilled nursing home" means an institution (or a distinct part of an institution) which meets the requirements specified in 45, CFR, Chapter II, Section 249.10(a)(4)(i).

SECTION II

RESPONSIBILITIES OF THE DEPARTMENT OF HEALTH

A. Surveying Responsibilities

1. The Health Department shall perform the following duties in accordance with standards established by 45, CFR, Chapter II, Section 249.33, for skilled nursing homes participating in the Minnesota Medical Assistance Program (Title XIX).
 - a. Accumulate, maintain, and furnish or verify to the Department of Public Welfare, upon request, full and complete information on the

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ownership of each skilled nursing home, including the identity of each person having ten (10) percent or more interest; and if organized as a corporation, information as to the officers and the director; and if organized as a partnership, information of each of the partners.

- b. Validate licensure status and report each such action to Department of Public Welfare via a copy of the nursing home's application to participate in the Minnesota Medical Assistance Program (Title XIX), and certify in writing, the level of compliance of each skilled nursing home with reference to the standards set forth in 45, CFR, Chapter II, Section 249.33, and that the nursing home:

- 1) employs a licensed nursing home administrator;
- 2) has in operation an organized nursing service;
- 3) maintains professional planning and supervision of menus and meal service for patients for whom special diets or dietary restrictions are medically prescribed;
- 4) has satisfactory policies and procedures relating to maintenance of medical records;
- 5) has satisfactory policies relating to the administration and distribution of drugs, medications, and biologicals;
- 6) maintains satisfactory policies and procedures relating to physician coverage and emergency medical attention;
- 7) has entered into written agreements with one or more general hospitals (under which such hospitals will provide needed diagnostic and other services to patients and under which such hospitals agree to timely acceptance, as patients thereof, of acutely ill patients who are in need of hospital care);
- 8) meets conditions relating to environment and sanitation; and
- 9) meets the requirements of the Life Safety Code (National Fire Protection Association, NFPA No. 101, 1967), or of such comparable State Fire and Safety Code, as are applicable to skilled nursing homes.

2. For all skilled nursing homes which fail to meet any or all of the itemized requirements set out in Paragraph "b" above, the Department of Health will make a written report to the Department of Public Welfare listing: (1) the skilled nursing home's areas of deficiency; (2) the reasonable prospects for correction of the deficiency(ies) within a six (6) month period; (3) the skilled nursing home's plan for correction of the deficiency(ies); and (4) the official opinion with any supporting information of the Department of Health as to whether the deficiency does or does not jeopardize the health and safety of the patients residing in each such licensed skilled nursing home.

3. Make on-site inspections, with qualified personnel, at least once during the term of the provider agreement, or more frequently if there is a question of compliance, and file a report with the Department of Public Welfare, which report shall: (1) ascertain whether the item(s) of deficiency have been corrected or is in the process of being corrected; (2) indicate the progress being made by the skilled nursing home in correcting the deficiency(ies); and, render an official opinion, with any supporting information, as to whether the

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deficiency(ies) does or does not jeopardize the health and safety of the patients.

- a. Qualified personnel shall mean those personnel who satisfy the Federal Surveyor Qualification Standards as specified by the Medical Services Administration.

B. Qualified Personnel

1. The Department of Health shall employ adequate qualified staff to perform the functions set out in Paragraph "1" above. Adequate shall be defined to include one team of surveyors for every thirty (30) skilled nursing homes.

C. Information and Reports

The Department of Health shall:

1. Maintain all information and reports used in determining whether a skilled nursing home meets the requirements set forth in Paragraph "A" above, for a period of not less than five (5) years.
2. Make such reports in such form and containing such information as the Department of Public Welfare may require and will comply with such instructions issued to insure the correctness of such reports, including provisions made for the inspection and review at all reasonable times, of fiscal, statistical, and other records for the review of operations within the scope of this Agreement.
3. Keep the Department of Public Welfare regularly informed of questions arising about failure of skilled nursing homes to comply with the provisions of 45, CFR, Chapter II, Section 249.33. When the Department of Health learns or is informed by the Department of Public Welfare of the failure of a skilled nursing home to maintain compliance of the provisions of 45, CFR, Chapter II, Section 249.33, the Department of Health shall take effective action to correct the situation. When a provider of skilled nursing home services is not willing, or able, to conform to such provisions following all possible efforts to resolve the problem by the Department of Health, the Health Department shall advise the Department of Public Welfare. The Health Department shall keep the Department of Public Welfare informed of progress on such problems at frequent intervals.
4. Permit duly authorized representatives of the United States Department of Health, Education, and Welfare, the United States General Accounting Office, or the Department of Public Welfare access to the Health Department records relative to surveying and certification of skilled nursing homes, and records of costs for providing these services, for audit and other purposes.

D. Consultative Services

1. See Section IV, this Agreement.

E. Training Activities

1. See Section V, this Agreement.

F. Fiscal

1. See Section VI, Paragraph "A", this Agreement

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SECTION III

RESPONSIBILITIES OF THE DEPARTMENT OF PUBLIC WELFARE

A. Certification Responsibilities

1. The Department of Public Welfare shall perform the following duties in accordance with standards established by 45, CFR, Chapter II, Section 249.33, for skilled nursing homes participating in the Minnesota Medical Assistance Program (Title XIX).
 - a. Establish the qualifications of nursing homes to participate in the Minnesota Medical Assistance Program (Title XIX), and to be reimbursed for such medical care and services supplied to eligible Title XIX recipients. Such participation shall be authorized for a six (6) month, or twelve (12) month period, subject to a determination of a facility's compliance with the provisions of 45, CFR, Chapter II, Section 249.33.
 - b. Issue to skilled nursing homes the appropriate provider agreement which specifies the period for which the nursing home is certified to participate in the Minnesota Medical Assistance Program (Title XIX).
 - c. Advise skilled nursing homes of the scope and limitations of the Minnesota Medical Assistance Program (Title XIX), of the responsibility of the Department of Public Welfare to the nursing home, and the nursing home's responsibility to the program and to patients eligible to receive Title XIX medical care and services.
 - d. Review data and information relative to a nursing home that has been surveyed by the Department of Health prior to making a determination as to whether the nursing home meets the standards set forth in 45, CFR, Chapter II, Section 249.33, and that such home can be certified to participate in the Minnesota Medical Assistance Program (Title XIX).
 - e. Review all questionable situations that arise about a nursing home and assess the level of correction of such situations should they be considered valid.
 - f. Inform the Department of Health of all requests by nursing homes to participate in the Minnesota Medical Assistance Program (Title XIX).
 - g. Identify those nursing homes that should be reviewed by the Health Department where quality of services rendered, or practices of the nursing home may be in question. Such cases, when indicated in the judgment of the Health Department, shall be referred to the Department of Public Welfare with appropriate detail for final decision.

B. Qualified Personnel

1. The Department of Public Welfare will assure itself that all surveys of Title XIX skilled nursing homes are performed by qualified personnel of the Health Department.

C. Information and Reports

The Department of Public Welfare shall:

1. Establish and maintain such records as may be necessary to fulfill the requirements of this agreement.
2. Make such reports, in such form and containing such information, to the Health Department as are required in the consideration of the certification, or decertification, of nursing homes by the Department of Public Welfare.

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3. Permit duly authorized representatives of the United States Department of Health, Education, and Welfare, and the United States General Accounting Office access to the Department of Public Welfare records relative to the certification of skilled nursing homes, and records of costs for providing services, for audit and other purposes.

D. Maintenance of Records

1. The Department of Public Welfare shall maintain all records for a period of at least five (5) years, as will permit audit and verification.

E. Rules and Regulations

1. The Department of Public Welfare will supply to the Health Department all rules and regulations pertaining to the requirements nursing homes must meet for participation in the Minnesota Medical Assistance Program (Title XIX).

F. Consultative Services

1. See Section IV, this Agreement.

G. Training Activities

1. See Section V, this Agreement.

H. Fiscal

1. See Section VI, Paragraph "A", this Agreement.

SECTION IV

PROVISION OF SPECIFIED CONSULTATIVE SERVICES

RESPONSIBILITIES OF THE HEALTH DEPARTMENT

A. Provision of Services

The Health Department shall:

1. Provide consultative services as described in Section 1902(a)(24) of the Social Security Act within the capabilities of the staff of the Health Department.
 - a. Such consultative services shall be provided as indicated and will be directed toward assisting the nursing home in question to meet the standards established by 45, CFR, Chapter II, Section 249.33, under which payment may be made to the nursing home in question for medical services rendered under Title XIX of the Social Security Act.

B. Information and Reports

The Health Department shall:

1. Report to the Department of Public Welfare on the status of each nursing home with respect to meeting standards established by 45, CFR, Chapter II, Section 249.33.
2. Maintain all information and records of costs of providing consultative services, and provide pertinent reports.
3. Permit duly authorized representatives of the United States Department of Health, Education, and Welfare, the United States General Accounting Office, or the Department of Public Welfare access to the Health Department records relative to consultative services in Title XIX participating skilled nursing homes, and records of costs for providing these services, for audit and other purposes.

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C. Joint Efforts

1. The Health Department and the Department of Public Welfare will jointly develop periodical review and if necessary revise procedures to implement orderly administration for providing consultative services to nursing homes.

D. Fiscal

1. See Section VI, Paragraph "A", this Agreement.

RESPONSIBILITIES OF THE DEPARTMENT OF PUBLIC WELFARE

A. Cooperative Efforts

1. The Department of Public Welfare will cooperate and work closely with the staff of the Department of Health for the augmentation and development of a program for providing consultative services to skilled nursing homes participating in the Minnesota Medical Assistance Program (Title XIX).

B. Information and Reports

The Department of Public Welfare shall:

1. Maintain summary information and cost records with respect to the provision of consultative services to skilled nursing homes received pursuant to Section 4B2.
2. Permit duly authorized representatives of the United States Department of Health, Education, and Welfare, and the United States General Accounting Office access to the Department of Public Welfare records relative to consultative services provided to skilled nursing homes.

Joint Efforts

1. The Department of Public Welfare and the Health Department will jointly develop, periodically review, and if necessary revise procedures to implement orderly administration for providing consultative services to nursing homes.

D. Fiscal

1. See Section VI, Paragraph "A", this Agreement.

SECTION V.

TRAINING ACTIVITIES

RESPONSIBILITIES OF THE HEALTH DEPARTMENT

A. Provision of Services

1. The Health Department will provide such staff as are necessary to assist the Department of Public Welfare to draft informational and instructional materials for purposes of training staff. Such training shall not be limited to the processes for surveying and certifying nursing homes for participation in Title XIX of the Social Security Act, but shall also include indepth training with reference to the nature and scope of the Title XIX program and policies, procedures, and requirements.

B. Fiscal

1. See Section VI, Paragraph "A", this Agreement.

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